REMARKS

Applicant has carefully reviewed the final office action mailed August 23, 2005 and the advisory action mailed December 1, 2005 and offers the following remarks to accompany the above amendments.

Applicant has decided to amend the claims in lieu of filing an appeal brief in an effort to expedite prosecution. Amendments made to independent claims 1, 13, 25, and 37 are provided to more clearly define the present invention. Claim 14 was also amended to more clearly define the present invention. Claims 10 and 48 were amended to correct typographical erros made in the dependencies.

Claims 1-43 were rejected under 35 U.S.C. § 102(e) as being anticipated by Mayes et al. (hereinafter "Mayes"). Applicant respectfully traverses. For the Patent Office to prove anticipation, the Patent Office must show where each and every element of the claim is taught in the reference. Further, the elements of the reference must be arranged as claimed. MPEP § 2131. Anticipation is a strict standard, and the Patent Office has not satisfied its burden in the present application.

Prior to addressing the rejections in detail, an overview of the invention is warranted. The present invention allows files to be privately transferred through a public peer-to-peer network. The public peer-to-peer network includes a plurality of nodes, which are part of a private network, which is formed within the public peer-to-peer network. To facilitate location and transfer of files, a server is configured to receive a search request for a file from a first node. Based on the request, the server will identify nodes that may contain the requested file. Once the nodes that contain the file are identified, the server will determine whether one of the nodes containing the file resides on a private network. Once a second node that has the file and that resides on the private network is identified, the server will provide instructions to the first node. These instructions will direct the first node to request the file from the second node. As such, the second node may transfer the file over the private network to the first node.

As amended, each of the independent claims 1, 13, 25, and 37 essentially recite that this server will provide the following functions:

receive a search request from the first node for a file;

determine that the file is stored on a second node;

determine that the first and second nodes are part of the same private network;

PAGE 12/16 * RCVD AT 3/10/2006 3:21:03 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2738300 * CSID:919 654 4521 * DURATION (mm-ss):04-26

and send instructions to the first node to request the file from the second node, such that the file may be transferred from the second node to the first node of the private network.

Mayes provides a security mechanism that is capable of providing network address translations between the Internet (38) and an enterprise network (36). The router (48) which resides in the enterprise network (36), is asserted by the Patent Office to provide the functionality of the server for the present invention. The router (48) of Mayes cannot be construed as the server of the present invention. Mayes provides a clear definition for their router (48) in col. 3, lines 17-21 as follows:

> A "router" is a piece of hardware which operates at the network layer to direct packets between various nodes of one or more networks. The network layer generally allows pairs of entities in a network to communicate with each other by finding a path through a series of connected nodes.

As defined, and is clearly understood by one of ordinary skill in the art, a router is simply a piece of hardware that allows various nodes, such as client nodes and server nodes, to communicate with each other.

The server of the present invention receives requests from nodes, provides processing in response to the request, and then sends a response to the node, which originated the request. In essence, the nodes and the server function in a traditional client-server relationship. The independent claims clearly define such a relationship. As such, the router in Mayes is simply not a server as claimed in the present invention.

For the step reciting "receiving by the server a search request from a first node for a file," the Patent Office points to col. 4, line 65 through col. 5, line 5 and col. 3, lines 25-45 in Mayes. Nowhere in these sections is there a search request sent from a first node to a server wherein the search request is one for a file. The only discussion of the router (48) in the portion of Mayes cited by the Patent Office, pertains to connecting the Translation system (34), node (52), and node (56) and routing package there between. There is no indication that a packet is a request or that a packet contains information requesting a file.

For the step of "determining by the server that the file is stored on a second node," the text at col. 4, line 55 through col. 5, line 5 is again used as reference. There is no mention of a file. This section simply describes the basic functions of router (48), which is to route packets between the Translation system (34), node (52), and node (56).

PAGE 13/16 * RCVD AT 3/10/2006 3:21:03 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2738300 * CSID:919 654 4521 * DURATION (mm-ss):04-26

For the step of "determining by the server that the first and second nodes are part of the same private network," the same portion of Mayes is again referenced. There is no indication that router (48) is actually determining that nodes (52) and (56) are part of a private network. There is no need in Mayes to makes such a decision, since these nodes are physically connected to the router (48), which resides within the enterprise network (36). Further, the router (48) is merely passing packets between nodes and provides no substantive processing or responses upon receipt of these packets.

For the step of "instructing the first node to obtain the file from the second node," the Patent Office again relies on the text at col. 4, line 55 through col. 5, line 5. There is nothing in this section of text indicating that a server is instructing a node to obtain a file from another node.

As mentioned above, the standards for anticipation are quite rigid. For a reference to anticipate a claimed invention, each element must be disclosed completely in the prior art reference. Since Mayes fails to disclose each and every claim element in claims 1, 13, 25, and 37, these claims define patentable subject matter. Further, the remaining claims, 2-12, 14-24, 26-36, and 38-43 further define patentable subject matter of claims 1, 13, 25, and 37, respectively.

As such, the present application is now in condition for allowance and such action is respectfully requested. The Examiner is encouraged to contact Applicant's representative regarding any remaining issues in an effort to expedite allowance and issuance of the present application.

PAGE 14/16 * RCVD AT 3/10/2006 3:21:03 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2738300 * CSID:919 654 4521 * DURATION (mm-ss):04-26

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PAGE 15/16 * RCVD AT 3/10/2006 3:21:03 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2738300 * CSID:919 654 4521 * DURATION (mm-ss):04-26